



**THE CITY OF NEW YORK
LAW DEPARTMENT**

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BY ECF

Hon. Edgardo Ramos
United States District Judge
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

January 25, 2024

MEMO ENDORSED, pg. 2.

Re: *Khanimova et al. v. Banks et al.*
23-CV-09531 (ER)

Dear Judge Ramos:

I am the Assistant Corporation Counsel assigned to represent the Defendants in the above matter. I write jointly with Plaintiffs' counsel, Rory J. Bellantoni, Esq., to provide the Court with the Parties' positions regarding the initial pre-trial conference (IPTC) and proposed briefing schedule.

Given that this matter is an appeal of an administrative decision from the Office of State Review centered on whether Student R.N.'s unilateral placement at iBrain during the 2022-2023 school year was appropriate, the Parties agree that an IPTC and/or mediation would be unnecessary. The Parties believe this matter can be resolved through motions for summary judgment based upon the certified record. The Plaintiffs have requested a copy of the certified administrative record from the Office of State Review and are waiting for receipt of the same.

The Parties expect receipt of the record within 4-6 weeks and jointly propose that upon receipt, the certified record be filed under seal, with a courtesy copy to be provided to Defendants. Given the 4-6 week processing time of the Office of State Review, the Parties anticipate receiving a copy of the certified record by February 26, 2024.

The Parties disagree on whether R.N.'s unilateral placement was appropriate during the 2022-2023 school year. The Parties, therefore, do not believe the IPTC or mediation would be helpful or beneficial in resolving the Plaintiffs' claims. The Parties propose the following briefing schedule in anticipation of receipt of the certified record on February 26, 2024:

March 18, 2024: Plaintiffs to file their Motion for Summary Judgment;

April 8, 2024: Defendants to file their Cross-Motion for Summary Judgment;

April 29, 2024: Plaintiffs to file their Opposition, Further Reply;

May 7, 2024: Defendants to file their Reply.

Please also find attached hereto the Parties' Joint Civil Case Management Plan and Scheduling Order. Kindly note that the Parties **do not** consent to conduct all further proceedings before the Magistrate and that no formal discovery is required beyond filing the certified administrative record.

Moreover, it is also respectfully submitted that because the inquiry here is not whether there are disputed issues of fact, the Rule 56.1 statements should be waived. While in IDEA actions, "the parties and the court typically style the decision as a ruling on a motion for summary judgment, [] 'the procedure is in substance an appeal from an administrative determination, not a summary judgment motion.'" *Bd. Of Educ. v. C.S.*, 990 F.3d 156,165 (2d Cir. 2021) (quoting *M.H. v. N.Y.C. Dep't of Educ.*, 685 F.3d 217, 226 (2d Cir. 2012)). Because the Parties' motions will be based solely on the administrative record, the Parties jointly and respectfully request that the Court waive the submission of 56.1 statements.

Further, the Parties respectfully request that the conference scheduled for February 1, 2024, be adjourned *sine die*.

The Parties thank the Court for its consideration in this matter.

Respectfully,

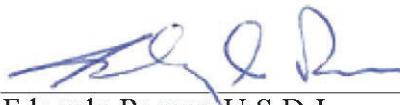
s/ David Kaplan

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Via ECF

The February 1, 2024 initial conference is adjourned. The proposed summary judgment briefing schedule is approved and the 56.1 statements are waived.

SO ORDERED.


Edgardo Ramos, U.S.D.J.
Dated: 1/29/2024
New York, New York